



Office of Campaign Finance

**FINAL AUDIT REPORT ON
THE D.C. FUND
POLITICAL ACTION COMMITTEE**

APRIL 2006

**REPORTS ANALYSIS AND AUDIT DIVISION
OFFICE OF CAMPAIGN FINANCE
WASHINGTON, DC 20009**

I. BACKGROUND

A. OVERVIEW

This Report is based upon the field audit of the Statements and Reports of Receipts and Expenditures filed by the D.C. Fund (formerly the Jack Pac) Political Action Committee (the "Committee") undertaken by the Reports Analysis and Audit Division (RAAD), Office of Campaign Finance (OCF), to determine if the Committee complied with the provisions of the District of Columbia Campaign Finance Reform and Conflict of Interest Act of 1974, as amended, D.C. Official Code Section 1-1103.03(8) (2001 Edition) (the "Act"). This audit was initiated to resolve questions raised by RAAD as the result of desk reviews and Requests for Additional Information (RAI) issued to the Committee, following the filing of the Reports of Receipts and Expenditures on March 10, 2004, June 10, 2004, August 10, 2004, October 10, 2004, December 10, 2005, January 31, 2005, and July 31, 2005. Whereupon, after the receipt of responses from the Committee, RAAD determined, pursuant to its operating procedures, that the audit was warranted for the 18 month period, inclusive of these financial reports.

The Preliminary Audit Report was issued on December 2, 2005. The Committee responded to the recommendations in the Preliminary Audit Report on December 12, 2005.

Due to the fact that other issues were noted in the Committee's Response to the Preliminary Audit Report, an Interim Audit Report was issued on January 30, 2006. The Committee responded to the recommendations in the Interim Audit Report on February 10, 2006.

1. Political Action Committee

The Jack Pac registered with the Office of Campaign Finance on December 8, 1993, in accordance with D.C. Official Code Section 1-1102.04. As the result of questions raised by the Audit Division to the Office of the General Counsel, and the Opinion of the General Counsel dated April 7, 2005, the Committee changed its name to The D.C. Fund to, among other things, lessen confusion in the contributing community. The D.C. Fund filed an Amended Statement of Organization with the OCF on April 22, 2005.

The audit of the D.C. Fund covered the period January 31, 2004 through July 31, 2005. The Committee's Report of March 10, 2004, disclosed a beginning cash balance of \$4,632.82. During the period of the pre-audit (desk) review, the Reports filed by the Committee reflected total aggregated receipts of \$60,200.00 and total aggregated expenditures of \$48,083.46; and, an ending cash balance of \$15,749.36. This reported ending cash balance was understated by \$1,000.00. Receipts and expenditures, as determined by the **audit** were \$65,950.00 and \$55,289.08, respectively, with an ending cash balance of \$15,302.74.

B. KEY PERSONNEL

At its organization, the principal officer of the Jack Pac was Jack Evans, the Member of the Council from Ward 2, who served as both Treasurer and Chairperson, as designated in the Statement of Organization. Acceptance of Treasurer and Chairperson Forms were filed on December 8, 1993. On April 15, 1994, Mr. Evans withdrew as the Committee Treasurer and Chairperson.

The Committee filed an Amended Statement of Organization on April 15, 1994, appointing a new treasurer and chairperson of record. The new officers were Mark Grummer, Treasurer, and William Hall, Chairperson. The Acceptance of Treasurer and Chairperson Forms were also filed on April 15, 1994.

On May 8, 1995, in response to a Request for Additional Information (RAI) dated April 7, 1995, the Committee submitted, in writing, a statement providing the account number of the Committee's bank account, and the names of the persons authorized to make withdrawals or payments. The individuals listed were Jack Evans, Councilmember, and Mark Grummer, Treasurer. Mark Grummer withdrew as Treasurer on May 9, 1997. The Committee filed an Amended Statement of Organization on May 9, 1997, appointing Gregory McCarthy as the new Treasurer of record. The Amended Statement of Organization, filed on January 26, 1999, appointed Mr. Mark Grummer again as the Treasurer of record. Mr. Grummer withdrew as Treasurer on April 15, 2005 and accepted the position of Chairperson for the Committee.

The Amended Statement of Organization, filed on April 22, 2005, reflected the change in the name of the PAC from the Jack Pac to the D.C. Fund, and appointed David Julyan as the new Treasurer of record. On August 16, 2005, David Julyan withdrew as the Committee Treasurer; however, on the next Report of Receipts and Expenditures filed, the July 31, 2005 Mid-Year Report, Mr. Julyan's signature appears on the Report as Treasurer. The Report was filed on September 16, 2005. On September 29, 2005, Committee officials notified the OCF that they would be terminating the D.C. Fund.

In its Response to the Preliminary Audit Report, the Committee stated that Mr. Julyan resigned as the Treasurer of the D.C. Fund on August 10, 2005. Further, in its August 15, 2005 letter to the DC Fund, OCF indicated that certain items on the Summary Page of the July 31, 2005 Mid-Year Report were stated on the wrong line. As a result, the Committee copied the page with the signature of David Julyan, corrected the placement of the information, re-dated and resubmitted the Mid-Year Report on September 16, 2005.

On December 23, 2005, OCF received a letter from Mr. David Julyan. Mr. Julyan stated that he did in fact resign as the D.C. Fund Treasurer on August 10, 2005, and that he has had no role in, or involvement with, the D.C. Fund activities since that date. Further, Mr. Julyan stated that he has never seen the letter from OCF dated August 15, 2005; nor, did he sign the D.C. Fund's September 15, 2005 amended filing in response to that letter.

Accordingly, the Audit staff believes the Committee had a vacancy in the office of treasurer after August 10, 2005, which represents a violation of D.C. Official Code Section 1-1102.01(a). D.C. Official Code Section 1-1102.01(a) states, "Every political committee shall have a chairman and a treasurer. No contribution and no expenditure shall be accepted or made by or on behalf of a political committee at a time when there is a vacancy in the office of the treasurer thereof and no other person has been designated and has agreed to perform the functions of the treasurer. No expenditure shall be made for or on behalf of a political committee without the authorization of its chairman or treasurer, or their designated agents."

In the Interim Audit Report, the Audit staff recommended that the Committee provide evidence that the office of Treasurer was not vacant on or after August 10, 2005.

In its Response of February 10, 2006, the Committee stated that the office of Treasurer was vacant; but, that there are significant mitigating circumstances that caused this vacancy to remain. Further, almost immediately following the D.C. Fund's meeting with OCF, the Washington Post began a series of articles focusing on the D.C. Fund; and, according to the Committee, once the media publicity began, it was impossible to find anyone willing to serve as the Treasurer of D.C. Fund. As a result, the position of Treasurer remains vacant.

On April 3, 2006, the Committee filed its January 31, 2006 Report of Receipts and Expenditures covering the period August 1, 2005 through January 31, 2006. The Report revealed that contributions were not received nor expenditures made during the period that the office of Treasurer was vacant.

The Audit staff concludes that no further action is recommended.

C. SCOPE

The audit procedures performed included a verification and/or examination of:

1. The mathematical accuracy of the Reports of Receipts and Expenditures filed with the OCF Director, during the period audited;
2. Total reported receipts and expenditures and individual transactions with source documents;
3. Conformity with the contribution limitation as mandated by D.C. Official Code Section 1-1131.01;
4. Committee debts and obligations;
5. Proper categorization of the Committee's receipts and expenditures; and

6. The review procedures as deemed necessary under the circumstances.

II. AUDITOR'S STATEMENT

The Office of Campaign Finance, based upon the receipt of further documentation in response to the Preliminary and Interim Audit Reports, finds that the following issues have been resolved:

1) Contributions Not Negotiated Through the Committee Bank Account

The Preliminary Audit Report revealed that the Committee reported two (2) contributions, totaling \$5,000.00 from two separate entities, which were not negotiated through the Committee's bank account.

In its February 10, 2006 Response to the Preliminary Audit Report, the Committee stated that it will correct this identification mistake by filing an amended report. Committee records revealed that there was a contribution from The Kerry S. Pearson, LLC, for \$5,000.00 that was not reported. The Committee states that this contribution actually consisted of the two (2) contributions that the Audit staff states were not negotiated through the Committee's bank accounts.

On April 3, 2006, the Committee filed an amended Consolidated Report to correct this identification, and report the actual contribution of \$5,000.00 from Kerry S. Pearson, L.L.C. No further action is required.

2) Overstated Receipt

Our audit revealed that on the October 10, 2004 Report of Receipts and Expenditures, the Committee reported a contribution that was overstated by \$1,000.00.

In its Response to the Preliminary Audit Report, the Committee stated that it will correct this overstated amount by filing an amended Report.

On April 3, 2006, the Committee filed an amended Consolidated Report to correct this overstatement. No further action is required.

3) Reported Voided Check

Our audit revealed that the Committee reported a disbursement that was voided. The Committee attempted to correct this error by adding the amount back into total receipts. This was incorrect reporting. The correction should have been made on the disbursement side as a negative amount and not on the receipt side, as attempted by the Committee. Therefore, the Audit staff had to adjust total receipts reported to correct this error.

In its Response to the Preliminary Audit Report, the Committee stated that it will correct this error, in the manner of reporting a voided check, by filing an amended Report.

Accordingly, the Committee corrected this error by filing the amended Consolidated Report. No further action is required.

4) Payments That Should Have Been Made From the Constituent Services Fund

Under D.C. Official Code Section 1-1104.03, “The Mayor, the Chairman of the Council, and each member of the Council may establish citizen-service program(s).” Pursuant to 3 DCMR Section 3014 of the OCF Regulations, “A citizen-service program shall encompass any activity or program which provides services to the residents of the District of Columbia; and promotes their general welfare, including, but not limited to, charitable, scientific, educational, medical or recreational purposes.”

The Preliminary Audit Report revealed seven (7) disbursements totaling \$1,102.44 for which the Committee reports the purpose as “constituent lunch/dinner/event”. The Audit staff questioned whether these disbursements should have been made from the Constituent Service Fund of Councilmember Jack Evans. After the review of the Committee records, the Audit staff was unable to determine whose interest was promoted in these transactions and/or the nature of the constituency.

In its Response to the Preliminary Audit Report, the Committee stated that each of these expenses is an item appropriately covered by the PAC. In addition, the Committee provides detailed explanations (the purpose of each expenditure) for each expenditure in question.

Accordingly, the Audit staff accepts the Committee’s response that these disbursements were made for political purposes. No further action will be required by the Committee.

However, the Audit staff recommends that in the future reporting of disbursements where the purpose noted is “constituent lunch/dinner/event”, the Committee must provide detailed explanations of the purpose of the event in order to verify that the expenditure of funds was consistent with the business or political purposes of the political committee.

5) Exercise of Control by Councilmember Jack Evans

Through the review of the financial documents, Reports and Statements filed by the Committee, the Audit staff questioned Councilmember Jack Evans’ control of the PAC, because it placed him at risk to violate the Conflict of Interest Act, the Campaign Finance Act, and the Employee Standards of Conduct. Several Requests for Additional Information were sent to the Committee by the Audit staff regarding certain expenditures that were made directly to Councilmember Jack Evans for reimbursements for certain events and travel.

The main checking account utilized by the Committee was in the name of Jack Evans, dba/The Jack Pac. In addition, all checks during the period audited were signed by Councilmember Jack Evans for that account. In June 2005, the Committee opened a second checking account in the name of the D.C. Fund which is still active.

Regarding our concern about what appeared to be the Councilmember's questionable level of control over the Jack Pac, the Committee stated in its Response to the Preliminary Audit Report that the DC Fund has requested the approval of the OCF to terminate the D.C. Fund. Further, the Committee submits that until termination is accomplished, Councilmember Evans will no longer have any control over the activities of the PAC. Nonetheless, the DC Fund believes that the PAC administered itself in a manner that was completely acceptable to OCF given both the PAC's history of operations and its communications with OCF.

Notwithstanding the response of the Committee, a change in supervisory authority in the Reports Analysis and Audit Division occurred in April 2004. Because of the change in management, during the review process of the Committee's Reports of Receipts and Expenditures, certain issues were raised concerning disbursements and reimbursements, heretofore unquestioned, made by the Jack PAC. This resulted in a referral to the Office of the General Counsel, and the issuance of the April 2005 Opinion, which represented the longtime views of the OCF concerning the D.C. Fund operations, and the limits upon the participation by the Councilmember.

Accordingly, the Audit staff accepts the Committee's request to terminate the D.C. Fund. The Committee filed a Termination Report on April 3, 2006.

6) Contribution from Prohibited Sources

Our audit also revealed that the Committee may have accepted a \$1,000.00 contribution from American Management Corporation, a business that has been awarded contracts within the District of Columbia. The Audit Division determined that the contributor, American Management Corporation, was pre-qualified by the District Government to bid on D.C. Contracts. This contribution to the PAC may be construed as a gift to a public official from a prohibited source in violation of the provisions of Section 1803.2 of Chapter 18, of the Personnel Regulations, "Employee Conduct."

In its Response to the Preliminary Audit Report, the Committee stated that the D.C. Fund was (and continues to be) unaware of any of AMC's business activities. Further, none of the AMC contracts identified in the Audit required the approval of the D.C. Council (all of the contracts being below the Council-review dollar threshold), and the agencies for which AMC was doing work do not fall within the oversight of any Committee on which Councilmember Evans serves. In the Committee's response to the Interim Audit report, the Committee provided an affidavit from Brett O. Greene, President and CEO of American Management Corporation (AMC). The affiant verifies that AMC is not engaged in any activity that is subject to legislative review by the

District of Columbia City Council, and is not engaged in any activity with any agency of the District of Columbia government that is subject to oversight by Councilmember Jack Evans.

In light of the Committee's request to terminate the D.C. Fund, the Audit staff agrees that the aforementioned issue has been resolved.

7) Receipts Not Reported

D.C. Official Code Sections 1-1102.06(b)(2) and (8) provide: "Each report under this section shall disclose: (2) The full name and mailing address (including the occupation and the principal place of business, if any) of each person who has made 1 or more contributions to or for such committee or candidate (including the purchase of tickets for events such as dinners, luncheons, rallies, and similar fundraising events) within the calendar year in an aggregate amount or value in excess of \$50 or more, together with the amount and date of such contributions[;] (8) The total sum of all receipts by or for such committee or candidate during the reporting period [.]"

Our audit revealed that the Committee failed to report eleven (11) contributions totaling \$12,250.00, and the total sum of all receipts received by the Committee. One of these contributions was received from The Kerry S. Pearson, LLC, for \$5,000.00 on October 26, 2004. The other ten (10) contributions totaling \$7,250.00 were received from various partners of Jack H. Olender and Associates, P.C., made payable to "Friends of D.C.".

In our opinion, the failure to disclose each of these receipts (contributions) and report the total sum of all receipts, may represent separate violations of D.C. Official Code Sections 1-1102.06(b)(2) and (8).

In its response to the Preliminary Audit Report, the Committee stated that this is not an accurate characterization because, first, as previously addressed in Part A-1, the contribution from Kerry S. Pearson, L.L.C., for \$5,000.00 was reported as two (2) contributions from two separate entities, which were not negotiated through the Committee's bank account. Second, the Committee states that the checks totaling \$7,250.00, made payable to "Friends of D.C.", were mistakenly deposited into the account of the D.C. Fund.

As previously stated, the Audit staff accepted the Committee's response that it would file an amended Consolidated Report to correct the identification of the \$5,000.00 contribution, and now accepts the explanation regarding the remaining \$7,250.00 of receipts. However, because these monies actually cleared the Committee's bank account, there is a reporting requirement. These receipts should have been reported on the Committee's Reports of Receipts and Expenditures even though these checks were mistakenly deposited into the DC Fund account. Otherwise, the Reports will not accurately state the financial activity of the Committee's bank account.

In the Interim Audit Report, the Audit staff recommended that the Committee file an amended consolidated report which states each contribution, and receipt previously unreported.

In its response to the Interim Audit Report, the Committee disagreed with this conclusion made by the Audit staff. The PAC reiterates that it did not record these deposits on its Report of Receipts and Expenditures because these checks were not contributions to the PAC. The D.C. Fund believed that no additional action is required regarding this issue.

At the Exit Conference on March 16, 2006, the Audit staff reaffirmed its recommendation that the Committee file an amended consolidated report inclusive of all receipts and contributions previously unreported.

In its Response of April 3, 2006, the Committee filed the amended Consolidated Report of Receipts and Expenditures inclusive of the aforementioned receipts and contributions previously unreported as recommended by the Audit staff. Accordingly, no further action is required.

8) Expenditures Not Properly Reported

D.C. Official Code Sections 1-1102.06(b)(9) and (10) provide: “Each report under this section shall disclose: (9) The full name and mailing address (including the occupation and principal place of business, if any) of each person to whom expenditures have been made by such committee or on behalf of such committee or candidate within the calendar year in an aggregate amount or value of \$10 or more, the amount, date, and purpose of each such expenditure and the name and address of, and office sought by, each candidate on whose behalf such expenditure was made; (10) The total sum of expenditures made by such committee or candidate during the calendar year [.]”

Our audit revealed that the Committee failed to report two (2) expenditures totaling \$7,490.00. For the expenditure made on July 14, 2005, in the amount of \$7,250.00, the Committee did not provide documentation of the disbursement. The Audit staff determined this expenditure was made through the review of Committee bank statements.

In its Response to the Preliminary Audit Report, the Committee stated that the deposit of \$7,250.00 was mistakenly made into the PAC’s bank account, and should have been made into the “Friends of DC” bank account. Further, once discovered, the deposit was subsequently transferred from the PAC account and properly deposited in the correct entity’s account. The PAC did not record the transfer of the \$7,250.00 on its Report as an expenditure because this sum was not actually spent by the PAC. The DC Fund believed no action is necessary regarding this item.

The Audit staff submits that the withdrawal of these monies, to be placed in the correct account is a reporting requirement. Because this disbursement actually cleared the Committee’s bank account, the transaction must be reported on the Committee’s

Reports of Receipts and Expenditures along with an explanation. Otherwise, as previously stated, the Reports will not accurately state the financial activity of the Committee's bank account.

The Audit staff recommended in the Interim Audit Report that the Committee file an amended consolidated report which includes all of the expenditures previously unreported.

The Committee responded that the D.C. Fund believes that no further action is required, similar to the rationale utilized for not recording the mistaken deposit on its Report of Receipts and Expenditures.

At the Exit Conference on March 16, 2006, the Audit staff reaffirmed its recommendation that the Committee file an amended consolidated report inclusive of all disbursements previously unreported.

In its Response of April 3, 2006, the Committee filed an amended Consolidated Report of Receipts and Expenditures inclusive of the aforementioned disbursements previously unreported as recommended by the Audit staff. Accordingly, no further action is required.

9) Checks Paid to Jack Evans

D.C. Official Code Section 1-1102.06(b)(9) provides that, "Each report under this section shall disclose:... The full name and mailing address (including the occupation and the principal place of business, if any) of each person to whom expenditures have been made by such committee or on behalf of such committee or candidate within the calendar year in an aggregate amount or value of \$10 or more, the amount, date, and purpose of each such expenditure and the name and address of, and office sought by, each candidate on whose behalf such expenditure was made [.]"

Our audit revealed that the Committee incorrectly reported fifteen (15) expenditures totaling \$23,365.20 on its Reports of Receipts and Expenditures during the period March 2004 through June 2005. The Committee reported these payments to different payees; however, our audit revealed that these payments were actually made to Jack Evans.

In its Response to the Preliminary Audit Report, the Committee stated that it has been the practice of the D.C. Fund to identify *the ultimate recipient* of an expenditure, not the individual being reimbursed, in order to provide transparency to the PAC's operations. The D.C. Fund provided copies of the receipts and documentation clearly evidencing proof of the underlying transaction.

The Audit staff disagrees with the Committee's response. As previously noted, D.C. Official Code Section 1-1102.06(b)(9) provides that "each report under this section shall disclose:... the full name and mailing address (including the occupation and the principal place of business, if any) of each person to whom expenditures have been made by such

committee....” All of the expenditures in question were made payable to Jack Evans; and, therefore, should have been reported paid to Jack Evans. The Audit staff noted that there were other reimbursements made to Jack Evans; and, that these disbursements were reported paid to the Councilmember with the purpose of each stated as “reimbursement”. Consistent therewith, the Committee should have reported these disbursements paid to Jack Evans in the same manner, disclosing the actual recipient of the expenditure, but with the purpose of each “reimbursement” stated, to verify that the reimbursement was an expenditure of funds, consistent with the business or political purposes of the political committee. This will achieve the transparency intended by the Committee; and, moreover, ensure compliance with the requirements of D.C. Official Code Section 1-1102.06 (h) (9).

In the Interim Audit Report, the Audit staff recommended that the Committee file an amended consolidated report listing Jack Evans as the payee with the purpose stated as “reimbursement”, and providing a description of the nature of the reimbursement.

In its Response to the Interim Audit Report, the Committee continues to maintain that it has been the practice of the D.C. Fund, with the consent of the Office of Campaign Finance, to provide transparency to the PAC’s operations by identifying the ultimate recipient of an expenditure (not the individual being reimbursed); that the only issue is the method of reporting; that it has reported these expenditures in a satisfactory manner; and that no further action is necessary.

At the Exit Conference on March 16, 2006, the Audit staff reaffirmed its recommendation that the Committee file an amended consolidated report identifying the actual payee of these disbursements, and stating the purpose of each “reimbursement”. Although the D.C. Fund may have been instructed by the OCF that its “practice” was acceptable, the better “practice” is to disclose the actual recipient of the expenditure, while also stating the purpose of each “reimbursement”, to achieve both transparency and compliance with the requirements of D.C. Official Code Section 1-1102.06(h)(9).

In its Response of April 3, 2006, the Committee filed an amended consolidated report identifying the actual payee of these disbursements as recommended by the Audit staff. Accordingly, no further action is required.

10) Questionable Expenditures

D.C. Official Code Section 1-1101.01(7)(A) provides: “The term ‘expenditure’ means: (A) A purchase, payment, distribution, loan advance, deposit, or gift of money or anything of value, made for the purpose of financing, directly or indirectly, the election campaign of a candidate or any operations of a political committee involved in such a campaign, to obtain signatures on any initiative, referendum, or recall petition, or to bring about the ratification or defeat of any initiative, referendum, or recall measure.”

a. The Washington Nationals

Our audit revealed three (3) disbursements in which the Committee reported payments to the Washington Nationals totaling \$19,160.00 for “Season Tickets and Playoff Tickets”. Based on the documentation provided by the Committee, the Audit staff was unable to determine the purpose for which this disbursement was made. The calculation of the \$19,160.00 sum is based on the bank records of the D.C. Fund. There were three entries on the Committee’s Reports of Receipts and Expenditures in which the Payees identified were “Washington Nationals”. Bank records substantiate three (3) disbursements in these amounts.

In its Response to the Preliminary Audit Report, the Committee stated that the D.C. Fund combined the expenditures for the tickets to the Washington Nationals and Wizards games as a single disbursement to the Washington Nationals of \$14,060.00 on the July 31, 2005 Report for “season tickets”; and, that the reported disbursements of \$4,000.00 to the Washington Nationals for season tickets on July 16, 2005 and \$1,000.00 on June 8, 2005 to the Washington Nationals for “Wizard Playoff Tickets” were reimbursement checks made payable to Jack Evans.

The Committee incorrectly reported these disbursements. The actual payments from the Committee bank account were issued to the Councilmember, not to the Washington Nationals; and, the purpose was “reimbursement”. The Campaign Finance Act requires identification of the “payee” and the “purpose of each expenditure” reported. It does appear that the Committee combined reporting for the purchase of the season tickets to the Washington Nationals and Washington Wizards. The personal check of Jack Evans, provided by the Committee in the amount of \$6,840.00 payable to the Washington Nationals as the initial payment, was made on February 2, 2005, for which Councilmember Evans was reimbursed in June 2005.

In the Interim Audit Report, the Audit staff recommended that the Committee file an amended consolidated report identifying Jack Evans as the payee (per bank records), and not the Washington Nationals as reported. In addition, the Audit staff recommended the Committee provide documentation as to how these tickets were used for political purposes of the PAC and to identify the recipients of these tickets.

In its Response to the Interim Audit Report, the Committee again explained that the D.C. Fund made a mistake by reporting expenditures for Nationals and Wizards tickets as a single disbursement to the Washington Nationals; and, that it will correct this mistake by separating the expenditures on its Final Report. Further, the Committee stated that all tickets were distributed to political and business associates of Jack Evans, in furtherance of its political purposes, in support of Evans’ relationships to activists, advocates, opinion makers, and leaders in citywide politics and business. However, the D.C. Fund did not maintain a record of the recipients of the tickets; and, cannot provide that information to OCF.

At the Exit Conference on March 16, 2006, the Audit staff recommended that the Committee reimburse the D.C. Fund for the Nationals and Wizards tickets unless the proper documentation is provided.

In its response of March 30, 2006, the Committee provided a list of the activists, advocates, opinion makers, leaders in citywide politic and business, and associates of Jack Evans, who utilized the PAC's Nationals and Wizards tickets.

The Audit staff accepts the response by the Committee and believes this issue has been resolved. Accordingly, no further action is required.

(b) Travel Expenses for the China Trip

The Committee reported on its January 31, 2005 Year-End Report of Receipts and Expenditures an expenditure as a reimbursement to Councilmember Jack Evans in the amount of \$6,772.72 on December 16, 2004 for "Expenses Incurred During China Trip" (China Trip). It appeared to the Audit staff that this disbursement was duplicated in light of the Washington Post article dated October 13, 2005, wherein Council Chairperson Linda Cropp stated that the D.C. Council paid for the trip. In addition, there appeared to be a conflict with the Report and the Washington Post article which contained a statement by Councilmember Evans that he paid for expenses incurred for a friend's cost of lodging and meals during the China trip. Consequently, the Audit staff questioned whether these expenses incurred were political in nature.

In its Response to the Preliminary Audit Report, the Committee stated that "these expenses were not for the travel and lodging expenses of Jack Evans, which were paid for by the D.C. Council." Instead, the Committee stated that the travel and lodging expenses were for a friend of Councilmember Evans. Further, the D.C. Fund has determined that the China Trip expenses for Councilmember Evans' friend could appropriately be covered by PAC funds, as it was unaware of any law or regulation that prohibits paying the costs for a friend to accompany a public official at a business function.

The Audit staff disputes the Committee's response for the reimbursement for expenses incurred during the China Trip because the Committee did not address how the expenditure supported the political and business purposes of the D.C. Fund. According to records received from the Council, Councilmember Jack Evans was provided with \$8,535.46 (\$6,251.00 for airfare, and \$2,284.46 for hotel expenses in Shanghai and Beijing) from the Council for his trip to China. The Councilmember was also reimbursed \$6,772.72 from the Committee for the China Trip. Again, the Committee states that this reimbursement was not for the travel and lodging expenses of the Councilmember, but for the travel and lodging of a friend who accompanied the Councilmember. It is the opinion of the Audit staff that the D.C. Fund should not be liable for the payment of travel and lodging expenses for a friend of a D.C. Councilmember who is on travel for political and business purposes, when the expense cannot be justified in furtherance of the political purposes of the PAC.

In the Interim Audit Report, the Audit staff recommended that the Councilmember reimburse the D.C. Fund \$6,772.72 for reimbursement of these travel and lodging expenses.

In its Response to the Interim Audit Report, the Committee reemphasized that it was not aware of any law or regulation that prohibits paying the costs for a friend to accompany Councilmember Evans on a political or business function. In addition, the Committee submits that under District of Columbia election laws, there is no problem with the D.C. Government paying for Councilmember Evans' official travel; and, a political committee paying for other political expenses incurred during an official trip. As a result, this expenditure by the D.C. Fund is expressly permissible under law, and the D.C. Fund believes that no further action is required on this matter.

At the Exit Conference on March 16, 2006, the Audit staff reaffirmed its recommendation that the Councilmember reimburse the D.C. Fund \$6,772.72 for the travel and lodging expenses because they failed to demonstrate that these expenses were not in furtherance of the political purposes of the PAC.

In its April 3, 2006 Response, the Committee provided that the Councilmember will reimburse the D.C. Fund \$6,772.72, for travel and lodging expenses incurred for the friend during the China Trip. The Committee provided a copy of the check from the Councilmember to the PAC and the amended consolidated report reflects the transaction as recommended by the Audit staff. Accordingly, no further action is required.

11) Misstatement of Financial Activity

The following chart details the discrepancies between the Committee's Reports of Receipts and Expenditures and bank records. The chart lists: (a) the amounts the Committee reported, (b) the actual amounts listed on its bank statements, and (c) the discrepancies between the two figures.

Comparison of Disclosure Reports and Bank Records

	Reported	Bank Statement	Discrepancy
Beginning Balance	\$4,632.82	\$4,632.82	
Receipts	\$60,200.00	\$65,950.00	\$5,750.00 understated
Disbursements	\$48,083.46	\$55,280.08	\$ 7,196.62 understated
Ending Cash Balance	\$16,749.36 Ending balance per report is overstated by \$1,000.00	\$15,302.74	\$ 1,446.62 overstated

The Audit staff compared the Committee's reported figures with its bank records and found that the Committee had misstated its receipts, disbursements, and its cash on hand balance, as of July 31, 2005.

Legal Standard

D.C. Official Code Sections 1-1102.06 (b)(8) and (10) provide that each Report must disclose the following:

- The amount of cash on hand at the beginning and end of the reporting period;
- The total sum of all receipts by or for such committee or candidate during the reporting period; and
- The total sum of expenditures made by such committee or candidate during the calendar year.

In its Response to the Preliminary Audit Report, the Committee provided its own reconciliation and has determined that there are no discrepancies other than the two matters identified in the Preliminary Audit Report (a \$1,000 overstatement of a contribution and a \$500 voided check reported).

The Audit staff disagrees with the Committee's version of the bank reconciliation. The Audit Divisions calculates bank balances in accordance with standard operating procedures to arrive at a reconciliation. The adjustments of the Audit staff are based on the bank records. The Audit staff will, however, make adjustments to the bank reconciliation based on the responses of the Committee upon which the Audit staff agrees. (See Enclosure #5) The adjustments are noted below:

In its Interim Audit Report, the Audit staff recommended the Committee file an amended consolidated report correcting the misstatement of its financial activity.

In its Response to the Interim Audit Report, the Committee provided that the D.C. Fund believes that it has demonstrated that there are no discrepancies between its Reports and the D.C. Fund's bank statements.

The Audit staff disagrees with the Committee's response in regard to this issue. As stated in the Interim Audit Report, the Audit Division calculates bank balances in accordance with standard operating procedures to arrive at a reconciliation. The adjustments of the Audit staff are based on the bank records, and the responses to the Preliminary Audit Report of the Committee in which the Audit staff agreed.

At the Exit Conference on March 16, 2006, the Audit staff recommended the Committee file an amended consolidated report making the necessary adjustment to its receipts and expenditures.

In its April 3, 2006 Response, the Committee filed an amended consolidated report inclusive of all the necessary adjustments to its receipts and expenditures as recommended by the Audit staff. Accordingly, no further action is required.

12) Filing an Informational Report by Councilmember Jack Evans

D.C. Official Code Sections 1-1102.06(b)(9) and (10) provide: “Each report under this section shall disclose: (9) The full name and mailing address (including the occupation and principal place of business, if any) of each person to whom expenditures have been made by such committee or on behalf of such committee or candidate within the calendar year in an aggregate amount or value of \$10 or more, the amount, date, and purpose of each such expenditure and the name and address of, and office sought by, each candidate on whose behalf such expenditure was made; (10) The total sum of expenditures made by such committee or candidate during the calendar year [.]”

Our audit revealed that the Committee failed to report two (2) expenditures totaling \$7,490.00. For the expenditure made on July 14, 2005 in the amount of \$7,250.00, the Committee did not provide documentation of the disbursement. The Audit staff determined this expenditure was made through the review of Committee bank statements.

In its Response to the Preliminary Audit Report, the Committee stated that the deposit of \$7,250.00 was mistakenly made into the PAC’s bank account, and should have been made into the “Friends of DC” bank account. Further, once discovered, the deposit was subsequently transferred from the PAC account and properly deposited in the correct entity’s account. The PAC did not record the transfer of the \$7,250.00 on its Report as an expenditure because this sum was not actually spent by the PAC. The DC Fund believes no action is necessary regarding this item.

For the record, the Audit staff became aware of the “Friends of D.C.” account through the conduct of the audit. The Committee states that this account was opened only for the purposes of a poll to determine the standing of Councilmember Jack Evans in the 2006 calendar year elections, and not as an exploratory committee for office. However, Section 7(a) (12) of the D.C. Act 16-153, “The Exploratory Committee Disclosure Informational Report and Contribution Prohibition Temporary Amendment Act of 2005”, effective July 26, 2002, specifically identifies polling as an “exploratory activity”. As required by this Act, the Committee did not file on July 31, 2005, an informational report with the OCF providing each contributor’s full name, employer, and contributions received by the committee; itemized expenditures by category; and the balance of the exploratory committee fund. The bank records for the “Friends of D.C.” indicate that the account was opened in June 2005 and closed in October 2005. The filing of an informational report to disclose the exploratory activity was required by D.C. Act 16-153.

By letter dated December 12, 2005, Kathy S. Williams, General Counsel, Office of Campaign Finance, requested that all records pertaining to Friends of D.C. be submitted immediately to the Audit staff for review. On December 15, 2005, the Committee provided the requested documentation. Bank statements show that the Committee made four (4) deposits (all contributions) totaling \$82,500.00 (\$45,000, \$20,000, \$10,000, and \$7,500) to the Friends of D.C. bank account, disbursements totaling \$82,469.00, and incurred bank charges totaling \$31.00. It appears all disbursements were made for consulting, surveying or polling. The last disbursement, a debit in the amount of

\$10,011.17 was made to close the Friends of D.C. account. The Audit staff was unable to determine where these monies were directed, who received them, or whether these transactions were supported by the D.C. Fund PAC or the Friends of D.C.

Sections 4(a) and (b) of the Exploratory Committee Temporary Act of 2005, provide fund balance requirements. The Act provides that any balance in the exploratory committee fund may be transferred to an established principal campaign committee, political committee, or charitable organization in accordance with D.C. Official Code Section 47-1803.03(a)(8). In addition, exploratory committee fund balances shall not be deemed the personal funds of any individual, including the individual seeking office.

In its Interim Audit Report, the Audit staff recommended that the Committee file an informational report with the Office of Campaign Finance, the Public Information and Records Management Division (PIRM), as required by the Exploratory Committee Disclosure Informational Report and Contribution Prohibition Temporary Amendment Act of 2005.

In its Response to the Interim Audit Report, the Committee submits that an informational report for Friends of D.C. was not filed because no such filing was required. Further, when the Friends of D.C. was formed, according to the Committee, District of Columbia law did not require any filings (informational or otherwise) with OCF regarding an Exploratory Committee; sometime thereafter, the D.C. City Council passed the Exploratory Committee Act. The Committee added that, once Councilmember Evans was made aware of this analysis, he further checked on the legal applicability of the Exploratory Committee Act with the General Counsel for the D.C. City Council, who confirmed the voluntary nature of any compliance with this new law. Therefore, the Committee believes there is no legal obligation to file an information report for the Friends of D.C.

The Office of Campaign Finance recognizes the voluntary nature of the filing requirement under the Exploratory Committee Temporary Act of 2005. Notwithstanding, Councilmember Jack Evans is strongly urged to file the requested informational report for Friends of D.C.

At the Exit Conference on March 16, 2006, the Audit staff reaffirmed its recommendation that the Committee file an informational report for Friends of D.C.

In its April 3, 2006 Response, the Committee submitted an informational report for the Friends of D.C. as recommended by the Audit staff. Accordingly, no further action is required.

13) Payment Made to Constituent Services Fund

Our audit revealed that the Committee made a payment to the Evans Constituent Service Fund (CSF) on April 11, 2005 in the amount of \$6,615.11 for various expenses purportedly incurred, but not reported on its Reports of Receipts and Expenditures, by the

CSF, which the Committee states required reimbursement. The review of the April 1, 2005, July 31, 2005, and October 31, 2005 filings by the CSF Committee did not reveal that this disbursement was reported on these filings as a receipt, as required by D.C. Official Code Section 1-1104.03(d). Therefore, the Audit staff was unable to determine whether this disbursement was received by the Constituent Service Fund.

In its Response to the Preliminary Audit Report, the Committee provided a copy of the bank statements reflecting the deposit of the amount of \$6,615.11 to the Councilmember's Constituent Services Fund.

The Audit staff recognizes that the issue presented concerns the reporting of these disbursements on the Constituent Service Fund Reports of Receipts and Expenditures. The Audit staff notes the receipt of these monies by the Evans Constituent Service Fund on the CSF bank statements; however, these disbursements were not reported on the Reports of Receipts and Expenditures filed by the Constituent Service Fund for calendar year 2005.

In the Interim Audit Report, the Audit staff recommended that the Constituent Service Fund file an amended July 1, 2005 Report of Receipts and Expenditures for the period (April 1, 2005 through June 30, 2005) inclusive of the disbursements previously unreported.

In its Response to the Interim Audit Report, the Committee stated that the D.C. Fund representatives will "walk through" the accounting of this payment to the Constituent Service Fund when they meet with OCF Audit staff. Further, for the record, according to the Committee, if the previously filed Constituent Services Fund Reports and D.C. Fund Reports are left unchanged, every disclosure that has been made related to this transaction is complete and accurate.

At the Exit Conference on March 16, 2006, the Audit staff reaffirmed its recommendation that the Constituent Services Fund file an amended July 1, 2005 Report of Receipts and Expenditures for the period (April 1, 2005 through June 30, 2005) inclusive of the disbursements previously unreported.

On April 5, 2006, the Committee filed an amended July 1, 2005 Report of Receipts and Expenditures as requested by the Audit staff.

FINAL RECOMMENDATION

We, therefore, recommend that this Report be issued as a “Final Audit Report”. We have determined that the reports, statements, and responses filed by the D.C. Fund Political Action Committee with the Director, Office of Campaign Finance, are in compliance with the District of Columbia Campaign Finance Reform and Conflict of Interest Act of 1974, as amended.

April 7, 2006

Date

Renee Coleman-Bunn

Renee Coleman-Bunn
Audit Manager

FINAL AUDIT APPROVED FOR RELEASE:

April 7, 2006

Date

Cecily E. Collier-Montgomery

Cecily E. Collier-Montgomery
Director
Office of Campaign Finance